IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Applicant(s): Robert May, *et al.*   Examiner: Pierre E. Elisca

Serial No: 10/743,655   Art Unit: 3621

Filing Date: December 22, 2003

Title: CUSTOMER AGE VERFICATION

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

Applicants submit this brief in connection with an appeal of the above-identified patent application. Payment of the $500.00 fee for filing this Appeal Brief is submitted herewith. In the event any additional fees may be due and/or are not covered by the fee submission, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1063 [SYMBP182US].

I.   Real Party in Interest (37 C.F.R. §41.37(c)(1)(i))

      The real party in interest in the present appeal is Symbol Technologies, Inc., the assignee of the present application.

II.   Related Appeals and Interferences (37 C.F.R. §41.37(c)(1)(ii))

      Appellants, appellants' legal representative, and/or the assignee of the present application are not aware of any appeals or interferences which may be related to, will directly affect, or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III.   Status of Claims (37 C.F.R. §41.37(c)(1)(iii))

      Claims 1-34 stand rejected by the Examiner. The rejection of claims 1-34 is being appealed.

IV.   Status of Amendments (37 C.F.R. §41.37(c)(1)(iv))

      No amendments were submitted after the Final Office Action. (*See* Advisory Action dated December 1, 2006).

V.   Summary of Claimed Subject Matter (37 C.F.R. §41.37(c)(1)(v))

      A.   Independent Claim 1

      Independent claim 1 relates to a system for facilitating age verification in a point-of-sale (POS) system environment by gathering encoded age-related information from an identification card, decoding the data, extracting the age-related information, and generating a data string representative of the age-related data. This string is compatible with a POS system and is subsequently sent to such a system where it can be indexed in a resident lookup table. The age-related data string can be used during subsequent transactions to verify whether the consumer meets an age requirement associated with products scanned by the system. In this way, age verification can be automated during purchase.

B. **Independent Claim 18**

Independent claim 18 relates to a method for age verification by utilizing a machine data reader to extract age-related information from an individual's identification card. A determination of age can be made subject to the data extracted, and a string is generated corresponding to the individual's age or an age range and sent to a POS system. Upon receiving the age or age range, the POS system can index the data in a lookup table for future access. This claim provides for automatic age verification such that the machine data reader can obtain the age and communicate relevant information to a POS system.

C. **Independent Claim 28**

Independent claim 28 relates to a system for verifying age comprising a machine data reader that reads encoded information, including a birth date, from an identification card. The reader comprises a clock to determine the current date, and a component that can compare the birth date to the current date in order to generate a POS compatible string based on this comparison. The string can be sent to a POS system for future use, for example, to verify whether the consumer meets an age requirement associated with products scanned by the system. In this way, age verification in connection with purchase can be automated.

VI.   Grounds of Rejection to be Reviewed (37 C.F.R. §41.37(c)(1)(vi))

A.   Claims 1-34 stand rejected under 35 U.S.C. §102(e) as being anticipated by Carr, *et al.* (US 2004/0049401). Claim 1 (and subsequent dependent claims) will be discussed separately from claims 18 and 28 (and subsequent dependent claims).

B.   Claims 1-34 stand rejected under 35 U.S.C. §102(e) as being anticipated by Rogers (US 2003/0178487).

VII.   Argument (37 C.F.R. §41.37(c)(1)(vii))

   A.   Rejection of Claims 1-34 Under 35 U.S.C. §102(e)

   Claims 1-34 stand rejected under 35 U.S.C. §102(e) as being anticipated by Carr, *et al.*
(US 2004/0049401). It is respectfully requested that this rejection be reversed for at least the
following reason. Carr, *et al.* fails to disclose or suggest each and every element recited in the
subject claims.

>   For a prior art reference to anticipate, 35 U.S.C. §102 requires that
>   "*each and every element* as set forth in the claim is found, either
>   expressly or inherently described, in a single prior art reference."
>   *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed.
>   Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814
>   F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis
>   added).

Claim 1

   The subject matter as claimed relates to a system for verifying a customer's age at a
point-of-sale system to regulate the sale of age-restricted goods. Upon receiving identification
from the customer, the machine data reader obtains and decodes data existing on the
identification and generates a string related to the data that can be understood by a point-of-sale
system. To this end, claim 1 recites a *machine data reader containing a verification
component that decodes the encoded data, extracts the age-related data information, and
generates a data string compatible with a point-of-sale system*. Carr, *et al.* fails to disclose or
suggest such aspects.

   Carr, *et al.* generally relates to obtaining information from identification documents –
such as driver's licenses – and utilizing the information in security applications. More
specifically, Carr, *et al.* discloses general exemplary environments where the system could be
utilized. Many of the environments, particularly the one cited by the Examiner, utilize a web-
cam to photograph the identification document and a separate system to evaluate, or decode, the
textual portion of the photograph in order to gather relevant information. (*See* pg. 3, paragraph
[0059]). Thus, the capturing of the data and decoding of the data are performed in disparate
systems – the decoding specifically performed at the point-of-sale system.

On the contrary, the subject matter as claimed in independent claim 1 recites a single device – the machine data reader and the components housed therein – as performing the data reading *and* decoding. Thus, the decoding does not need to be performed at the point-of-sale system as described in Carr, *et al.* To achieve this end, the subject matter as claimed generates and delivers a point-of-sale system compatible string to the point-of-sale system. Carr, *et al.*, however, merely discloses, "the web-cam captures optically-encoded data, and the terminal decodes the same." (*See* pg. 3, paragraph [0059]). Thus, in the Carr, *et al.*, the reading device (the web-cam) only gathers the data (in the form of an image) and submits the image to the terminal for processing. Therefore, it is up to the terminal to decode the image and attempt to discern relevant information from the image. This requires significant processing power and capability, and regardless, is not a point-of-sale system compatible data string as recited in the subject claims. The subject matter as claimed, however, does all of the work of gathering *and* decoding internally and generates a data string compatible with the point-of-sale system. Therefore, it is readily apparent that Carr, *et al.* fails to disclose or suggest each and every element of claim 1.

Moreover, Carr, *et al.* is completely silent in regard to many of the dependent claims. Specifically, claim 2 recites *the data string is substantially similar to a string generated by a barcode scanner upon reading a barcode.* This aspect is not taught by Carr, *et al.* especially since the data generated by the device is a picture; hardly what is generated by a barcode scanner upon reading a barcode. Also, *the machine data reader comprising a component to identify items for sale within the point-of-sale system* as recited in claim 3 is not disclosed in Carr, *et al.* The web-cam device merely takes a picture of the consumer's license. For at least these reasons, Carr, *et al.* does not teach all elements recited in claims 2 or 3 either, and in fact, the Examiner does not appear to consider the dependent claims in turn. (*See* Office Action dated April 17, 2006 and Final Office Action dated October 5, 2006). Rather, the claims are rejected under this section pursuant to 4 paragraphs of Carr, *et al.* without any indication of express or inherent teaching. However, these paragraphs, and the entire publication, do not disclose or suggest each and every element of at least claims 1, 2, and 3.

Claim 18 and 28

Claim 18 of the subject application recites *generating a string that is received by a point-of-sale system, the string identifying at least one of an age and range of ages of the individual*. However, as disclosed on pg. 3, paragraph [0059] (the section cited by the Examiner), Carr, *et al.* recites "the web-cam captures optically-encoded data, and the terminal decodes the same." The optically-encoded data that the web-cam captures is a picture. Since the terminal decodes this data, it is evident that the terminal receives the photo from the web-cam. On the contrary, the point-of-sale system recited in claim 18 receives an age-identifying string, not a picture. These forms of data are vastly different as the string is a primitive type that is simply-deciphered and space-efficient, whereas the picture is a large collection of pixels requiring advanced processing to display, much less discern text from it. Thus, it is readily apparent that Carr, *et al.* fails to disclose or suggest each and every element of claim 18.

Claim 28 recites a similar aspect of a component that *generates a string that is acceptable by a point-of-sale system*. As discussed *supra*, Carr, *et al.* fails to disclose or suggest such aspects of the claimed subject matter.

For at least the forgoing reasons, Carr, *et al.* fails to disclose or suggest each and every element of claims 1, 2, 3, 18, and 28, as well as claims 4-17, 19-27, and 29-34 which depend therefrom. Thus, this rejection should be reversed.

B.   Rejection of Claims 1-34 Under 35 U.S.C. §102(e)

Claims 1-34 stand rejected under 35 U.S.C. §102(e) as being anticipated by Rogers (US 2003/0178487). It is respectfully requested that this rejection be reversed for at least the following reason. Rogers fails to disclose or suggest each and every element recited in the subject claims.

As mentioned, the claimed subject matter generally relates to an age verification system that communicates age information received from an identification card to a point-of-sale system. To this end, independent claim 1 (and similarly independent claims 18 and 28) recites a machine data reader that *generates a data string compatible with a point-of-sale system based at least in part on the age-related data; and a component that relays the age-related data string to the point-of-sale system, the point-of-sale system indexes the data string to a resident lookup table*. Rogers does not disclose such claimed aspects.

Rogers generally relates to an optical scanning unit that merely allows or denies use to a vending machine based on first inserting an identification card, such as a driver's license, before inserting payment or making a selection. In particular, in the exemplary system disclosed in Rogers, when identification is inserted, the system uses complicated methods including optical character recognition (OCR) to discern the birth date present on the face of the identification document. If the individual is not of age or if the birth date cannot be recognized, the system will not allow the person to continue using the machine. This is contrary to the subject claims which allow a purchaser to buy other items, just not the age-restricted goods for which she does not meet the criteria. Moreover, Rogers fails to disclose a system that *generates a data string compatible with a point-of-sale system . . . the point-of-sale system indexes the data string to a resident lookup table*.

The subject matter as claimed recites a component, the machine data reader, that generates a point-of-sale compatible string from a piece of identification and a point-of-sale system that receives this data string and indexes it to a lookup table. Rogers does not contemplate a point-of-sale system indexing anything, much less a data-string generated by a machine data reader, nor does it contemplate generating anything but a picture (as in Carr, *et al.*). Specifically, paragraph [0056] discloses obtaining a picture of identification through optical scanning, but goes on to state that "[t]his image may be sent to other parts of the system to be analyzed." Nowhere does Rogers disclose generating a point-of-sale compatible string from information gathered from the identification card as in the subject claims. In addition, the only data the point-of-sale system receives in Rogers is not data such as a string, but rather a signal – presumably analog – such as "vend enable." (*See* paragraph [0083]). This is not an *age-related data string* as relayed in claim 1. Thus, the point-of-sale system in Rogers cannot also be said to index a data string in a lookup table if it is not even capable of receiving such a string. Assuming *arguendo* that it could receive a data string, Rogers further fails to recite any sort of indexing accomplished by the point-of-sale system as recited in the subject claims. For at least the foregoing reasons, it is apparent that Rogers does not disclose or suggest a system that *generates a data string compatible with a point-of-sale system . . . and a component that relays the age-related data string to the point-of-sale system, the point-of-sale system indexes the data string to a resident lookup table*.

Additionally, as with Carr, *et al.*, the Examiner has not provided indication of where aspects of the dependent claims are allegedly disclosed in Rogers. Again, at least claims 2 and 3 are not expressly or inherently disclosed or suggested by Rogers. In particular, Rogers does not contemplate data strings generated by barcode scanners as recited in claim 2, nor does the same device which verifies age (the machine data reader) identify items for sale as recited in claim 3.

In light of this, Rogers fails to teach or suggest each and every element as recited in claims 1, 2, 3, 18 and 28 (from which claims 4-17, 19-27, and 29-34 depend). Therefore, rejection of these claims should be reversed.

C.   Conclusion

For at least the above reasons, the claims currently under consideration are believed to be patentable over the cited references. Accordingly, it is respectfully requested that the rejections of claims 1-34 be reversed.

If any additional fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP182US].

Respectfully submitted,

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VIII.   Claims Appendix (37 C.F.R. §41.37(c)(1)(viii))

1.   A system that facilitates age verification of an individual, comprising:

a machine data reader that gathers age-related data information based at least in part upon encoded data existing on an identification card read by the machine data reader, the machine data reader containing a verification component that decodes the encoded data, extracts the age-related data information, and generates a data string compatible with a point-of-sale system based at least in part on the age-related data; and

a component that relays the age-related data string to the point-of-sale system, the point-of-sale system indexes the data string to a resident lookup table.

2.   The system of claim 1, the data string is substantially similar to a string generated by a barcode scanner upon reading a barcode.

3.   The system of claim 1, the machine data reader comprising a component to identify items for sale within the point-of-sale system.

4.   The system of claim 1, the point-of-sale system executing a command based at least in part on the data string indexed in the lookup table.

5.   The system of claim 1, the lookup table being a price lookup table.

6.   The system of claim 1, the point-of-sale system comprising a display unit that displays the age-related data.

7.   The system of claim 1, further comprising a component that automatically prohibits sale of at least one of age-restricted goods and age-restricted services to a buyer who does not meet a requisite age.

8.   The system of claim 1, further comprising a component that automatically delivers a notification to an authoritative body in an instance that a buyer who does not meet a requisite age attempts to purchase at least one of age-restricted goods and age-restricted services.

9.   The system of claim 1, further comprising a component that automatically generates a report in an instance that a buyer who does not meet a requisite age attempts to purchase at least one of age-restricted goods and age-restricted services.

10.   The system of claim 9, the report automatically delivered to an authoritative body.

11.   The system of claim 1, the machine data reader being at least one of a barcode scanner and a magnetic stripe reader.

12.   The system of claim 1, the age-related information is a range of ages.

13.   The system of claim 1, the age-related information is an age.

14.   The system of claim 1, the verification component comprising a real-time clock, the age-related information at least partially determined by comparing age information extracted from the identification card to a current date as calculated by the real-time clock.

15.   The system of claim 1, further comprising a component that searches a list of individuals wanted by an authoritative body, the list comprising data relating to the individuals, and the search performed by comparing the data relating to the individuals with the encoded data.

16.   The system of claim 15, wherein the authoritative body wanting an individual is automatically contacted upon at least a partial match of data relating to the individual in the list and the encoded data.

17.   The system of claim 1, the identification card is one of a driver's license, a military identification card, a credit card, a debit card, and a smart card.

18.   A method for verifying an age of an individual, comprising:

 providing a machine data reader;

 extracting data relating to an individual from an identification card *via* the machine data reader;

 determining age-related information of an individual identified by the identification card based at least in part upon the extracted data;

 generating a string that is received by a point-of-sale system, the string identifying at least one of an age and range of ages of the individual; and

 indexing the received data string in a lookup table resident on the point-of-sale system.

19.   The method of claim 18, further comprising informing a user of the point-of-sale system of at least one of the individual's age and a range of ages that the individual's age resides.

20.   The method of claim 19, the user informed of the at least one of the individual's age and the range of ages that the individual's age resides by a display of the point-of-service system.

21.   The method of claim 18, the age-related information at least partially determined by comparing age information within the extracted data to a current date.

22.   The method of claim 18, further comprising:

 indexing the string to a lookup table within the point-of-sale system; and

 initiating a command corresponding to the indexing.

23.   The method of claim 18, further comprising automatically prohibiting sale of at least one of age-restricted goods and age-restricted services to the individual if the individual does not meet a requisite age.

24.   The method of claim 18, further comprising automatically notifying an authoritative body when the individual does not meet a requisite age and attempts to illegally purchase at least one of an age-restricted good and an age-restricted service.

25.   The method of claim 18, further comprising automatically generating a report when the individual does not meet a requisite age and attempts to illegally purchase at least one of an age-restricted good and an age-restricted service.

26.   The method of claim 25, the report comprising the individual's name, age, and the at least one of the age-restricted good and the age-restricted service that the individual attempted to purchase.

27.   The method of claim 18, further comprising:
        searching a list of individuals wanted by at least one of an international, federal, state, and local authoritative body, the list comprising data related to the individuals;
        comparing the data related to the individuals with the extracted data; and
        automatically contacting the at least one of the international, federal, state, and local authoritative body upon at least a partial match between the extracted data and the data related to the individuals.

28.   A system that verifies an age of an individual, comprising:
        a machine data reader that reads encoded information from an identification card related to an individual, the encoded information comprising a birth date, and the machine data reader comprising:
                a real-time clock that determines a current date;
                a component that compares the birth date with the current date; and
                a component that generates a string that is acceptable by a point-of-sale system, the string based at least in part upon the comparison between the birth date and the current date.

29.   The system of claim 28, the point-of-sale system receives the string and indexes the string to a lookup table, and data at least partially based upon the comparison between the birth date and the current date is relayed to a seller upon indexing the string to the lookup table.

30.   The system of claim 29, the lookup table further indexing strings that identify at least one of an item and a service that are sold at the point-of-sale system, the at least one age-restricted item is flagged.

31.   The system of claim 30, an individual is prevented from buying at least one age-restricted good and service when the individual does not meet a requisite age based at least in part upon the flag.

32.   The system of claim 31, the encoded data comprising data not related to age.

33.   The system of claim 32, further comprising a component that isolates the birth date from the data not related to age and extracts the birth date.

34.   The system of claim 28, the machine data reader comprising a bar code scanner, the bar code scanner scans barcodes relating to at least one of a good and a service sold at a point-of-sale system.

IX.   Evidence Appendix (37 C.F.R. §41.37(c)(1)(ix))
    None.

X.   Related Proceedings Appendix (37 C.F.R. §41.37(c)(1)(x))
    None.